

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
COURT FILE NO.: CV - _____**

ROBERT J. DESMOND,
Plaintiff

v.

PORTFOLIO RECOVERY ASSOCIATES,
LLC and BLATT, HASENMILLER,
LEIBSKER & MOORE, LLC,
Defendant

COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

1. The United States Congress has found there is abundant evidence of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress drafted the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (hereinafter “FDCPA”), with the goal to eliminate abusive collection practices utilized by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.

3. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), violations of the Pennsylvania Fair Credit Extension Uniformity Act, 73 P.S. § 2270.1 et. seq. (FCEUA), and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, et. seq., as well as other state law tort claims.
4. Venue is proper because the acts and transactions, which are the subject of this complaint, occurred in this District, Plaintiff resides in this District and the Defendant transacts business within this District.

PARTIES

5. Plaintiff, Robert J. Desmond is a natural person and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
6. Defendant, Portfolio Recovery Associates, LLC (hereinafter referred to as "PRA") is a corporate entity with its principal place of business located at 140 Corporate Boulevard, Norfolk, Virginia 23502. Defendant PRA is a debt collector as that term is defined by 15 U.S.C. § 1692a(6) that acquires from other debt collectors or creditors delinquent consumer accounts hoping to realize a profit through the collection of the unpaid balances.
7. Defendant, Blatt, Hasenmiller, Leibsker & Moore, LLC. (hereinafter referred to as "BHLM"), is a limited liability company engaged in the practice of law, including the collection of consumer debts, with its business headquarters located at 1835 Market Street, Suite 501, Philadelphia, PA 19103.
8. At all times relevant to this Complaint, Defendants PRA and FLB transacted business in the Eastern District of Pennsylvania and at other locations throughout

Pennsylvania, operating as “debt collector[s]” as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

9. On or about December 18, 2013, Defendant BHLM filed suit against Desmond in Lehigh County Court of Common Pleas on behalf of Portfolio Recovery Associates, LLC alleging that Desmond had received extensions of credit from HSBC Nevada Bank, N.A., an obligation which Defendants averred was still outstanding and which had allegedly be assigned to Portfolio. The obligation is a “debt as that term is defined by 15 U.S.C § 1692a(5).
10. Defendant alleged in its complaint that Desmond owed the sum of \$1,235.43, making Desmond a “consumer” as that term is defined by 15 U.S.C § 1692a(3).
11. At Defendant’s request Desmond was served with a copy of the Complaint.
12. In response to receipt of the complaint Desmond placed a call to BHLM in an attempt to resolve the alleged obligation.
13. During the call, Desmond was offered two options for payment. Option 1: \$1,142.00 paid by January 30, 2014 or Option 2: \$119.00 monthly until paid in full.
14. On January 14, 2014, BHLM sent a letter to Desmond confirming the terms of the settlement Option 1. The letter provides that upon payment of the settlement amount of \$1,142.00, BHLM would dismiss the pending lawsuit; advise PRA that the account was settled and request updated credit reporting; and send a letter confirming settlement of the account. A true and correct copy of the January 14, 2014 letter is attached hereto and incorporated herein as Exhibit A.

15. Desmond elected to take Option 1 to resolve the disputed obligation and made payment of \$1,142.00 via an electronic funds transfer on January 27, 2014.
16. On or about April 15, 2014, BHLM sent a letter to Desmond confirming receipt of the settlement payment. A true and correct copy of the April 15, 2014 letter is attached hereto and incorporated herein as Exhibit B.
17. Despite payment of the funds required under Option 1 January 27, 2014, Defendants continued litigation of the Lehigh County case, attending the an arbitration hearing on August 13, 2014 and obtaining an Arbitration Award against the Defendant in the amount of \$1,235.43. A true and correct copy of the August 13, 2014 Arbitration Award is attached hereto and incorporated herein as Exhibit C.
18. Defendant's continuation of the litigation and entry of an arbitration award against Desmond violated numerous provisions of FDCPA, including but limited to 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(4), 1692e(5), 1692e(10), 1692f and 1692f(1) amongst others.
19. While attempting to collect the alleged debt from Plaintiff, Defendant utilized collection tactics that are contrary to the standards of civilized society and those of others in its industry.
20. The acts and omissions of Defendant's agents/employees were incidental to or of the same general nature, as the responsibilities PRA authorizes its agents to perform in collecting consumer debts.
21. In committing these acts and omissions against Plaintiff, BHLM was motivated to benefit their client, PRA.

TRIAL BY JURY

22. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. Amend. 7. Fed. R. Civ. Pro. 38.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. §1692 et seq.

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
24. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the FDCPA, including but not limited to each of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
25. As a result of each of Defendant's violations of the FDCPA, Plaintiff is entitled to statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that judgment be entered against each and every Defendant for:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. §1692 et seq.

- For an order declaring that the Defendant's actions as described above are in violation of the FDCPA;
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each and every Defendant;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant.

TRIAL BY JURY

Plaintiffs are entitled to and hereby respectfully demand a trial by jury. US Const.

Amend. 7. Fed. R. Civ. Pro. 38.

Respectfully submitted,

Dated: August 9, 2015

RAPA LAW OFFICE, P.C.

By: s/Jason M. Rapa
Jason M. Rapa, Esquire
PA Attorney I.D. No. 89419
Matthew J. Rapa, Esquire
PA Attorney I.D. 208946
141 S. 1st Street
Lehighton, PA 18235
Telephone (610) 377-7730
Attorney for Plaintiff

Law Offices

Blatt, Hasenmiller, Leibsker & Moore LLCP.O. Box 5463 * Chicago, Illinois 60680-5463
Toll Free 866/269-9864 * Fax 312/704-9430

01-14-14

REFERENCE #:	XXXXXXXXXX88
CLIENT #:	XXXXXXXXXXXX4330
CREDITOR:	PORTFOLIO RECOVERY ASSOCIATES LLC
TYPE:	MASTERCARD
DEBTOR:	ROBERT J DESMOND
CASE #:	2013-C-4566
PRINCIPAL:	\$1235.43
INTEREST:	\$0.00
ATTORNEY FEE:	\$0.00
COURT COSTS:	\$192.50
TOTAL SUIT AMOUNT:	\$1427.93
AMOUNT PAID:	\$0.00
SUIT BALANCE:	\$1427.93
SETTLEMENT AMOUNT:	\$1,142.00
SETTLEMENT DATE:	1/30/2014

Please be advised our client has authorized us to extend to you the above settlement offer.

TO ACCEPT THIS OFFER RETURN YOUR PAYMENT OF THE SETTLEMENT AMOUNT TO THIS OFFICE BY THE SETTLEMENT DATE.

Your payment of this settlement will result in the following actions by this office:

1. We will dismiss the pending lawsuit shown above.
2. We will advise our client that we have received the settlement so that they can update their reports (if any) to the credit reporting agencies to indicate that the debt has been settled.
3. We will send you a letter to confirm that the settlement amount has been paid if you request us to do so.

If you wish to accept the settlement we suggest that you call us at once at (866) 269-9858 and advise us of your intentions so we can appropriately notate your file. If you cannot take advantage of the settlement offer but wish to arrange for payment of the Suit Balance in installments, please call here with your proposal.

Please contact this office without delay if you have any questions about this offer. If we do not receive your amount by the acceptance date or agree to extend that date, then this offer expires on the above settlement date. We are not obligated to renew this offer.

Thank you,

Blatt, Hasenmiller, Leibsker & Moore, LLC

THIS IS A COMMUNICATION FROM A DEBT COLLECTOR AND THIS IS AN ATTEMPT TO COLLECT A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

BLP7SA2 HL5



SDB

Illinois

Indiana

Michigan

Arizona

Pennsylvania

A

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Law Offices

Blatt, Hasenmiller, Leibsker & Moore LLC

P.O. Box 5463 * Chicago, Illinois 60680-5463
Toll Free 866/269-9862 * Fax 312/704-9459

04-15-14

ROBERT J DESMOND
1974 KENNY DR
BETHLEHEM, PA 18018

RECEIVED BY THE CREDITORS OF THE DEBTOR

CREDITOR: PORTFOLIO RECOVERY ASSOCIATES LLC
TYPE: MASTERCARD
DEBTOR: ROBERT J DESMOND
REFERENCE #: 123456789
ACCOUNT #: XXXXXXXXXXXX4330
AMOUNT PAID: \$1142.00

This letter shall confirm that the above captioned debtor(s) has paid the above settlement amount on the above captioned account.

Please retain this letter for your records as proof of payment. If you have any questions, please feel free to contact this office.

Sincerely,

Blatt, Hasenmiller, Leibsker & Moore, LLC

Upon receipt of all required payments, your account will be considered settled and you will not be obligated to pay the remaining balance. The terms of this settlement are final, and we have no obligation to renegotiate them at a later date. You must make all required payments by their agreed upon due dates. Subject to applicable law, payments submitted as a result of this settlement are not eligible for refund at any time, except in rare instances, such as where the total of all payments made exceeds the total amount due under the terms of this settlement.

As a result of this settlement, if the amount cancelled on this debt equals or exceeds \$600, the IRS may require FIA Card Services to report the amount cancelled on a Form 1099-C. You will receive this form for the year in which the settlement is completed. If you want advice about the potential tax consequences that may result from this settlement, FIA Card Services recommends that you consult a tax professional of your choosing. FIA Card Services does not make any representations about the tax consequences that this settlement may have for you or any reporting requirements that may be imposed on FIA Card Services.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND THIS IS AN ATTEMPT TO COLLECT A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.
BLP8A (04/14/2014)



SDB

Illinois

Indiana

Michigan

Arizona

Pennsylvania

B

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IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CIVIL COURT DIVISION

2013-C-4566
Robert J Desmond
1974 Kenny Dr
Bethlehem Pa 18018

File No.: 2013-C-4566

Contract Debt Collection - Credit Card

Portfolio Recovery Associates LLC
- VS -
Robert J Desmond

Copies of this Order were mailed to all counsel of record and pro se litigants.

236 NOTICE

Pursuant to Pa.R.C.P. § 236, notice is hereby given that an order, decree, or judgment in the above captioned matter has been entered.

Andrea E. Naugle
Clerk of Judicial Records

C

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CIVIL DIVISION

Lehigh County Arbitration Award For File No: 2013-C-4566

Portfolio Recovery Associates LLC

- VS -

Robert J Desmond

Nina Menicelli

Plaintiff: Morris A Scott, Esq

Defendant: Robert J Desmond

We do solemnly swear (or affirm) that we will support, obey and defend the
Constitution of the United States and the Constitution of this Commonwealth and that
we will discharge the duties of our office with fidelity.

PRINT NAME

SIGNATURE FOR OATH

William P. Bried Chairman

W. P. Bried Chairman

DAVID C. SKATTENSTEIN

D. C. Skattenstein

Mark C. Von Horn

Mark C. Von Horn

AWARD

After hearing attended by:

Plaintiff:

Plaintiff's Attorney:

NONE

NINA MENICHECCI, ESQ

Defendant:

Defendant's Attorney:

Service
Completed

NONE

NONE

Yes, 1/7/14

We, the undersigned arbitrators, having been duly appointed and sworn (or affirmed),
make the following award: (Note: If damages for delay are awarded they shall be
separately stated).

Lehigh County Arbitration Award For File No: 2013-C-4566

Codes:

P Plaintiff	OC Original Claim	A Amount	I Interest
D Defendant	CC Counter Claim	N None	C Costs
AD Additional Defendant	CT Count	O Other	

ON ORIGINAL CLAIM:

We find in favor of:

(P, D, AD) (Name)

P Postolio Recovery
Associates, LLC

and against the:

(P, D, AD) (Name)

D Robert J. Desmond

in the amt of:

(A, N, O)

A \$ 1,235.43

THE COUNTERCLAIM:

We find in favor of:

(P, D, AD) (Name)

and against the:

(P, D, AD) (Name)

in the amt of:

(A, N, O)

AWARDED INTERESTS AND COSTS

ALTERNATE AWARD (COMPLETE ONLY IF AWARD FORM IS INAPPLICABLE)

SIGNATURE FOR AWARD

Date of Hearing 8/13/14

Date of Award 8/13/14

W. P. Fried Chairman
R. E. Schmitt
[Signature] Arbitrator, dissents.

Lehigh County Arbitration Award For File No: 2013-C-4566

NOTICE OF ENTRY OF AWARD

Now, the 13 day of Aug, 2014 at 2:30 a.m./p.m., the
above award was entered upon the first appropriate docket and notice thereof given by
mail to the parties or their attorneys on _____, 20____.

Arbitrators' compensation
to be paid upon appeal,
is non-refundable as per
Pa. RCP 1308 (2).

ANDREA E. NAUGLE
CLERK OF COURTS - CIVIL DIVISION

Docketed By: ME
Mailed By: _____